

## REMARKS

### **1. Status of Claims**

Claims 1-10 have been rejected in the Office Action of January 20, 2004. Claims 1-10 are pending. Accordingly, applicant respectfully requests reconsideration and allowance of the application in view of the following remarks.

### **2. Disqualification of Leary (U.S. Patent No. 6,425,133) as Prior Art under Section 103(c) Through Common Ownership**

Applicant respectfully submits that U.S. Patent No 6,425,133 to Leary ("Leary") should be disqualified as prior art.

35 U.S.C. Section 103(c) states, in relevant part, that subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 shall not preclude patentability where the subject matter and claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Accordingly, Leary should be disqualified as prior art because U.S. Application 09/735,816 and Leary were, at the time the invention of U.S. Application 09/735,816 was made, owned by Motorola Inc.

### **3. Section 103(a) Rejection Over Leary (U.S. Patent No. 6,425,133) in View of Bacon et al. (U.S. Patent No. 5,440,632)**

Claims 1-3 and 10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Leary in view of U.S. Patent No. 5,440,632 to Bacon et al. ("Bacon"). The disqualification of Leary as prior art established above renders this rejection moot, as Bacon does not teach or suggest the claimed invention. The obviousness rejection should therefore be withdrawn.

### **4. Section 103(a) Rejection Over Leary (U.S. Patent No. 6,425,133) in View of Bacon et al. (U.S. Patent No. 5,440,632) and Hendricks et al. (U.S. Patent No. 5,990,927)**

Claims 4 and 7 stand rejected under 35 U.S.C. § 103(a) as being obvious over Leary in view of Bacon and U.S. Patent No. 5,990,927 to Hendricks et al. ("Hendricks"). The disqualification of Leary as prior art established above renders this rejection moot, as

Hendricks in view of Bacon does not teach or suggest the claimed invention. The obviousness rejection should therefore be withdrawn.

**5. Section 103(a) Rejection Over Leary (U.S. Patent No. 6,425,133) in View of Bacon et al. (U.S. Patent No. 5,440,632), Hendricks et al. (U.S. Patent No. 5,990,927), and Wagner et al. (U.S. Patent No. 5,761,602)**

Claims 5, 6, 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being obvious over Leary in view of Bacon, Hendricks and U.S. Patent No. 5,761,602 to Wagner et al. ("Wagner"). The disqualification of Leary as prior art established above renders this rejection moot, as Wagner in view of Hendricks in view of Bacon does not teach or suggest the claimed invention. The obviousness rejection should therefore be withdrawn.

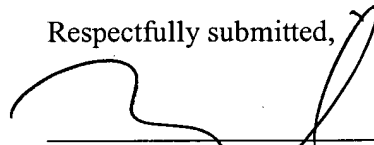
**CONCLUSION**

It is respectfully submitted that all claims in the application are now allowable. Reconsideration and withdrawal of the pending rejections are respectfully requested. Early and favorable notice to this effect is earnestly solicited.

If the Examiner does not consider all of the pending claims allowable, the undersigned respectfully requests an interview with the Examiner to discuss the merits of the case.

Dated: April 20, 2004

Respectfully submitted,

  
\_\_\_\_\_  
Richard P. Gilly, Reg. No. 37,630  
Attorney for Applicant

Wolf, Block, Schorr and Solis-Cohen LLP  
1650 Arch Street - 22<sup>nd</sup> Floor  
Philadelphia, PA 19103-2097  
(215) 977-2704